

AMENDED IN ASSEMBLY SEPTEMBER 7, 2007

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN ASSEMBLY JUNE 21, 2007

AMENDED IN SENATE MAY 24, 2007

AMENDED IN SENATE MAY 2, 2007

AMENDED IN SENATE MARCH 29, 2007

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**SENATE BILL**

**No. 518**

**Introduced by Senator Migden**

February 22, 2007

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An act to add Article 1.5 (commencing with Section 224.70) to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 518, as amended, Migden. Juveniles: Youth Bill of Rights.

~~(1) Existing~~

*Existing* law authorizes a peace officer to take a minor that the officer has reasonable cause to believe is within the jurisdiction of the juvenile court, either as a dependent child or as a ward of the court, into temporary custody without a warrant, as specified. Existing law provides procedures for processing the minor thereafter. Existing law requires the release within 48 hours of a minor who is taken into temporary custody by a peace officer or probation officer, as specified, unless a petition to declare him or her a dependent child or ward of the court has been filed. Existing law requires the juvenile court, upon the appearance of a minor at a detention hearing, to inform the minor, and

his or her parents or guardians, of the reasons why the minor was taken into custody, the nature of the juvenile court proceedings, and their right to representation by counsel.

This bill would enact the “Youth Bill of Rights” in connection with youth confined in a ~~juvenile facility of the Division of Juvenile Facilities~~. The bill would enumerate various specific rights. The bill would require every ~~juvenile Division of Juvenile Facilities~~ facility to provide each youth who is placed in the facility with an age and developmentally appropriate orientation that includes an explanation and a copy of the rights, and would require a ~~juvenile facility of the Division of Juvenile Facilities~~ to post a listing of the rights. The bill would require all ~~juvenile facilities of the Division of Juvenile Facilities~~ to provide care, placement, and services to youth in their custody without discriminating on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status. The bill would require the Office of the Ombudspersons of the Division of Juvenile ~~Justice Facilities~~ to take various actions in connection with the rights, including disseminating information, investigating complaints, providing information regarding complaints it does not investigate, compiling data and making it available to the Legislature, and providing a toll-free telephone number. The bill would further require the Ombudspersons of the Division of Juvenile ~~Justice Facilities~~, in consultation with specified groups, to develop standardized, age-appropriate information in connection with these rights by July 1, 2008. ~~By increasing the duties of local agencies, this bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:

1 (a) Youth confined in ~~juvenile facilities~~ *a facility of the*  
2 *Department of Corrections and Rehabilitation, Division of Juvenile*  
3 *Facilities*, are harmed by discrimination based on actual or  
4 perceived race, ethnic group identification, ancestry, national  
5 origin, color, religion, sex, sexual orientation, gender identity,  
6 mental or physical disability, and HIV status.

7 ~~(b) Youth are detained in juvenile facilities and nonsecure shelter~~  
8 ~~settings pending the filing and resolution of juvenile court cases~~  
9 ~~or pending transfer to other facilities, programs, or placements.~~

10 (e)

11 (b) Youth are committed to the *Department of Corrections and*  
12 *Rehabilitation, Division of Juvenile Facilities* ~~or other juvenile~~  
13 *facilities* in order to provide them an opportunity for rehabilitation.  
14 These rehabilitation opportunities shall include the provision of  
15 educational, therapeutic, and other necessary services to ensure  
16 that these youth can become successful and productive members  
17 of their communities.

18 ~~(d)~~

19 (c) All youth confined in ~~juvenile facilities~~ *the Division of*  
20 *Juvenile Facilities* have the constitutional right to a safe and secure  
21 environment.

22 ~~(e) All Division of Juvenile Facilities and local facilities are~~

23 (d) *The Division of Juvenile Facilities* is committed to treating  
24 all people with dignity, respect, and consideration and  
25 demonstrating behavior which is fair, honest, and ethical.

26 ~~(f)~~

27 (e) There is a need to inform youth confined in ~~juvenile facilities~~  
28 *the Division of Juvenile Facilities* about their rights.

29 SEC. 2. Article 1.5 (commencing with Section 224.70) is added  
30 to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
31 Code, to read:

32  
33 Article 1.5. Youth Bill of Rights  
34

35 224.70. For the purposes of this article:

36 (a) “Committed” means placed in a ~~juvenile facility~~ *facility of*  
37 *the Division of Juvenile Facilities* pursuant to a court order,  
38 independent of, or in connection with, other sentencing alternatives.

39 (b) “Detained” means held in secure confinement in a juvenile  
40 ~~facility pending filing or resolution of a juvenile court case or~~

1 pending transfer to other facilities, programs, or placements. *facility*  
2 *of the Division of Juvenile Facilities.*

3 (c) “Extended family member” means any adult related to the  
4 youth by blood, adoption, or marriage, and any adult who has an  
5 established familial or mentoring relationship with the youth,  
6 including, but not limited to, godparents, clergy, teachers,  
7 neighbors, and family friends.

8 ~~(d) “Juvenile facility” means a place of confinement that is~~  
9 ~~operated, or contracted for, by a county or state agency, for the~~

10 (d) “*Facility of the Division of Juvenile Facilities*” means a  
11 *place of confinement that is operated by, or contracted for, the*  
12 *Department of Corrections and Rehabilitation, for the purpose of*  
13 *the detention or commitment of youth who are taken into custody*  
14 *and alleged to be within the description of Section 601 or 602 or*  
15 *who are adjudged to be a ward of the court.*

16 ~~(e) “Youth” means any of the following:~~

17 ~~(1) A person under 18 years of age.~~

18 ~~(2) A person over 18 years of age who is under the jurisdiction~~  
19 ~~of the juvenile court.~~

20 ~~(3) A person under 18 years of age whose case is in the adult~~  
21 ~~criminal court system as a result of any of the following:~~

22 ~~(A) After a finding that he or she is not a fit and proper subject~~  
23 ~~to be dealt with under juvenile court law.~~

24 ~~(B) After being charged directly in a court of criminal~~  
25 ~~jurisdiction.~~

26 ~~(C) After being transferred to a court of criminal jurisdiction~~  
27 ~~under Section 707.01 of the Welfare and Institutions Code.~~

28 (e) “*Youth*” means any person detained in a facility of the  
29 *Division of Juvenile Facilities.*

30 224.71. It is the policy of the state that all youth confined in a  
31 ~~juvenile facility~~ *facility of the Division of Juvenile Facilities* shall  
32 have the following rights:

33 (a) To live in a safe, healthy, and clean environment conducive  
34 to treatment and rehabilitation and where they are treated with  
35 dignity and respect.

36 (b) To be free from physical, sexual, emotional, or other abuse,  
37 or corporal punishment.

38 (c) To receive adequate and healthy food and water, sufficient  
39 personal hygiene items, and clothing that is adequate and clean.

1 (d) To receive adequate and appropriate medical, dental, vision,  
2 and mental health services.

3 (e) To refuse the administration of psychotropic and other  
4 medications consistent with applicable law or unless immediately  
5 necessary for the preservation of life or the prevention of serious  
6 bodily harm.

7 (f) To not be searched for the purpose of harassment or  
8 humiliation or as a form of discipline or punishment.

9 (g) To maintain frequent and continuing contact with parents,  
10 guardians, siblings, children, and extended family members,  
11 through visits, telephone calls, and mail.

12 (h) To make and receive confidential telephone calls, send and  
13 receive confidential mail, and have confidential visits with  
14 attorneys and their authorized representatives, ombudspersons and  
15 other advocates, holders of public office, state and federal court  
16 personnel, and legal service organizations.

17 (i) To have fair and equal access to all available services,  
18 placement, care, treatment, and benefits, and to not be subjected  
19 to discrimination or harassment on the basis of actual or perceived  
20 race, ethnic group identification, ancestry, national origin, color,  
21 religion, sex, sexual orientation, gender identity, mental or physical  
22 disability, or HIV status.

23 (j) To have regular opportunity for age-appropriate physical  
24 exercise and recreation, including time spent outdoors.

25 (k) To contact attorneys, ombudspersons and other advocates,  
26 and representatives of state or local agencies, regarding conditions  
27 of confinement or violations of rights, and to be free from  
28 retaliation for making these contacts or complaints.

29 (l) To participate in religious services and activities of their  
30 choice.

31 (m) To not be deprived of any of the following as a disciplinary  
32 measure: food, contact with parents, guardians, or attorneys, sleep,  
33 exercise, education, bedding, access to religious services, a daily  
34 shower, a drinking fountain, a toilet, medical services, reading  
35 material, or the right to send and receive mail.

36 (n) To receive a quality education that complies with state law,  
37 to attend age-appropriate school classes and vocational training,  
38 and to continue to receive educational services while on  
39 disciplinary or medical status.

40 (o) To attend all court hearings pertaining to them.

1 (p) To have counsel and a prompt probable cause hearing when  
2 detained on probation or parole violations.

3 (q) To make at least two free telephone calls within an hour  
4 after initially being placed in a ~~juvenile facility~~ *facility of the*  
5 *Division of Juvenile Facilities* following an arrest.

6 224.72. (a) Every ~~juvenile facility~~ *facility of the Division of*  
7 *Juvenile Facilities* shall provide each youth who is placed in the  
8 facility with an age and developmentally appropriate orientation  
9 that includes an explanation and a copy of the rights of the youth,  
10 as specified in Section 224.71, and that addresses the youth's  
11 questions and concerns.

12 (b) ~~Juvenile facilities~~ *Each facility of the Division of Juvenile*  
13 *Facilities* shall post a listing of the rights provided by Section  
14 224.71 in a conspicuous location. The Office of the Ombudspersons  
15 of the Division of Juvenile ~~Justice Facilities~~ shall design posters  
16 and provide the posters to each Division of Juvenile Facilities  
17 facility subject to this subdivision. ~~The posters in facilities of the~~  
18 ~~Division of Juvenile Facilities~~ *These posters* shall include the  
19 toll-free telephone number of the Office of the Ombudspersons of  
20 the Division of Juvenile ~~Justice Facilities~~.

21 224.73. All ~~juvenile facilities~~ *facilities of the Division of*  
22 *Juvenile Facilities* shall ensure the safety and dignity of all youth  
23 in their care and shall provide care, placement, and services to  
24 youth without discriminating on the basis of actual or perceived  
25 race, ethnic group identification, ancestry, national origin, color,  
26 religion, sex, sexual orientation, gender identity, mental or physical  
27 disability, or HIV status.

28 224.74. (a) The Office of the Ombudspersons of the Division  
29 of Juvenile ~~Justice Facilities~~ shall do all of the following:

30 (1) Disseminate information on the rights of children and youth  
31 in the custody of the Division of Juvenile Facilities, as provided  
32 in Section 224.71, and the services provided by the office.

33 (2) Investigate and attempt to resolve complaints made by or  
34 on behalf of youth in the custody of the Division of Juvenile  
35 Facilities, related to their care, placement, or services, or in the  
36 alternative, refer appropriate complaints to another agency for  
37 investigation.

38 (3) Notify the complainant in writing of the intention to  
39 investigate or the decision to refer the complaint to another agency  
40 within 15 days of receiving the complaint. If the office declines

1 to investigate a complaint, the office shall notify the complainant  
2 of the reason for this decision.

3 (4) Update the complainant on the progress of the investigation  
4 and notify the complainant in writing of the final outcome, steps  
5 taken during the investigation, basis for the decision, and any action  
6 to be taken as a result of the complaint.

7 (5) Document the number, source, origin, location, and nature  
8 of complaints.

9 (6) Provide a toll-free telephone number for the Office of the  
10 Ombudspersons of the Division of Juvenile ~~Justice~~ *Facilities*.

11 (7) Compile and make available to the Legislature and the public  
12 all data collected over the course of the year, including, but not  
13 limited to, the number of contacts to the toll-free telephone number,  
14 the number of complaints made, the number of investigations  
15 performed by the office, the number of referrals made, the issues  
16 complained about, the number of sustained complaints, the actions  
17 taken as a result of sustained complaints, and the number of  
18 unresolved complaints, including the reasons the complaints could  
19 not be resolved.

20 (b) (1) The Office of the Ombudspersons of the Division of  
21 Juvenile ~~Justice~~ *Facilities*, in consultation with the ~~Chief Probation~~  
22 ~~Officers of California~~, youth advocate and support groups, and  
23 groups representing children, families, children's facilities, and  
24 other interested parties, shall develop, no later than July 1, 2008,  
25 standardized information explaining the rights specified in Section  
26 224.71. The information developed shall be age-appropriate.

27 (2) The Office of the Ombudspersons of the Division of Juvenile  
28 ~~Justice, the counties,~~ *Facilities* and other interested parties may  
29 use the information developed in paragraph (1) in carrying out  
30 their responsibilities to inform youth of their rights provided under  
31 Section 224.71.

32 ~~SEC. 3. If the Commission on State Mandates determines that~~  
33 ~~this act contains costs mandated by the state, reimbursement to~~  
34 ~~local agencies and school districts for those costs shall be made~~  
35 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
36 ~~4 of Title 2 of the Government Code.~~